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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,604	11/18/2003	Osamu Funayama	1602.1030	3676
21171	7590	02/14/2006	EXAMINER	
STAAS & HALSEY LLP			PATEL, ANAND B	
SUITE 700				
1201 NEW YORK AVENUE, N.W.			ART UNIT	PAPER NUMBER
WASHINGTON, DC 20005			2116	

DATE MAILED: 02/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/714,604	FUNAYAMA, OSAMU	
	Examiner Anand Patel	Art Unit 2116	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 23 December 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-15 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 18 November 2003 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All
  - b) Some \*
  - c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Specification***

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The abstract of the disclosure is objected to because it exceeds the word limit. Correction is required.

See MPEP § 608.01(b).

3. The disclosure is objected to because the specification is generally narrative and indefinite, failing to conform with current U.S. practice. It appears to be a literal translation into English from a foreign document and is replete with grammatical and idiomatic errors. For instance, on page 1, lines 14-16, the phrase "after initialization processing ... to be carried out during startup of the apparatus has been beforehand executed by an BIOS" is not clear.

Appropriate correction is required.

### ***Claim Objections***

4. The claims are objected to because the claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. For example, claim 1, line 8, the phrase "said initialized state" lacks antecedent basis; claim 3, line 6, the phrase "processing according to said initialization part is made" is not idiomatically correct; and claims 5-6, the phrase "an the OS" is grammatically flawed.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 5, 7, 13-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. As per claim 5, the claim contains the phrase “said selection part comprises an the OS”. Examiner is unsure whether the selection part is one piece within a larger OS or if the full OS is one piece of the selection part. For purposes of examination, Examiner will assume that the selection part is one piece within a larger OS.

8. As per claims 7, 13-15, the phrase “non-working state” is indefinite. Examiner is unclear whether non-working means inactive, or inoperable and not functioning. For purposes of examination, Examiner will assume that non-working means inactive.

***Claim Rejections - 35 USC § 101***

9. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

10. Claims 8-13 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims are directed toward a program per se, which is non-statutory subject matter.

***Claim Rejections - 35 USC § 102***

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1, 3, 14 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No 5974552 to Lim et al (Lim).

- As per claim 1, Lim discloses an apparatus (figure 1) with a standby mode (hibernation state), said apparatus comprising:
  - An initialization part (circuitry performing S5) performing initialization processing (POST) of at least a part of said apparatus (S5-S6);
  - A standby mode shifting part (60) shifting said apparatus to the standby mode while maintaining the state of said apparatus initialized by said initialization part (S10-S11); and
  - A restoration part (60) restoring said apparatus from the standby mode according to said standby mode shifting part with the initialized state being maintained (S3-S4).
- As per claim 3, Lim discloses the apparatus further comprising:
  - A boot part (circuitry performing S5-S6) for performing boot processing of said apparatus by a power supply being turned on (S2, S5-S6); and
  - A selection part (hibernation mode flag; column 5, lines 19-21) capable of selectively setting whether the initialization processing according to said initialization part is performed when said apparatus is shifted to the standby mode by said standby mode shifting part, or before or at the time when the boot processing is performed by said power supply being turning on (S3, S10-S11; column 5, lines 21-26, 33-37).

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- As per claim 14, Lim discloses a method for controlling an apparatus (figure 1) with a standby mode (hibernation state), said method comprising:
  - A step (S5) of performing initialization processing (POST) of said apparatus;
  - A step (S10-S11) of shifting said apparatus to the standby mode while maintaining the initialized state thereof (column 5, lines 33-35); and
  - A step (S3-S4) of restoring said apparatus from said standby mode (column 5, lines 19-23) in response to receipt of an instruction for placing said apparatus into a working condition (S1; wake-up request).

*Claim Rejections - 35 USC § 103*

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 2, 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lim in view of US Patent No 6434696 to Kang.

- As per claim 2, Lim discloses the apparatus characterized in that said initialization processing comprises a POST (S5). Lim fails to disclose said initialization part comprises a BIOS. Kang teaches an initialization part that comprises a BIOS (column 2, lines 3-7). An advantage of the system taught by Kang is the ability to reduce the time required to boot (column 2, lines 60-67). It would have been obvious to one of ordinary skill in the art at the time of invention to modify Lim with Kang.  
Motivation to modify is to save time while booting.

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- As per claim 4, Lim discloses the apparatus characterized in that said initialization processing comprises a POST (S5). Kang teaches an initialization part and an selection part comprise a BIOS (column 2, lines 3-7, 20-41; S14).
- As per claim 5, Lim discloses the apparatus characterized in that said initialization processing comprises a POST (S5), and said selection part comprises an OS (hibernation mode flag). Kang teaches an initialization part comprises a BIOS (column 2, lines 3-7).
- As per claim 6, Lim discloses the apparatus characterized in that the selective setting according to said selection part is performed at the time of shutdown processing of an the OS (figure 2; column 5, lines 31-37).

15. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lim in view of Kang and US Patent No 6813674 to Velasco et al (Velasco).

- As per claim 7, Lim discloses the apparatus characterized in that said initialization part (circuitry performing S5) performs initialization processing (POST). Lim and Kang fail to disclose performing initialization upon receipt of an instruction for placing said apparatus into a non-working condition. Velasco teaches initializing a device upon receipt of an instruction (message to place system into next low power state) for placing an apparatus into an inactive condition (column 2, lines 32-36). An advantage of the system taught by Velasco is the ability to reduce power consumption in a system without performance degradation (column 4, lines 6-12). It would have been obvious to one of ordinary skill in the art at the time of invention to modify Lim and Kang with Velasco. Motivation to modify is to save power without performance loss.

***Allowable Subject Matter***

16. Claim 15 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims

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and if rewritten to overcome the 35 U.S.C. 112 rejection discussed above. Prior art does not disclose or suggest rebooting an apparatus in response to receipt of an instruction for placing said apparatus into a non-working condition, wherein an initialization step is performed after said reboot step.

### ***Conclusion***

17. Examiner notes that should claims rejected under 35 U.S.C. 101 be rewritten to overcome this rejection, references cited and used in the rejection above could be applicable.
18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
  - US Patent No 5978913 to Broyles et al teaches a quick boot that skips POST based on a previous state of a system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anand Patel whose telephone number is (571) 272-7211. The examiner can normally be reached on Mon-Fri 8AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne Browne can be reached on (571) 272-3670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ABP

*James F. Truillo*  
2/6/06  
James Truillo  
PATENT EXAMINER  
TECHNOLOGY CENTER 2100